



Retired District Judge James Murphy Presides Over First Drug Court

*Written for the Judicial News by
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Cynics call it the hugging court, a place criminals are let off easy.

Converts say Douglas County's Drug Court is one answer to a drug problem that has skyrocketed since the 1960s.

The one thing skeptics and believers are likely to agree on is that Omaha's Drug Court is nothing at all like a traditional criminal courtroom.

There is just too much hugging.

But it doesn't start out that way.

Most of the people admitted to the two-year-old Drug Court program are charged with felony drug possession. Many are accused of possessing methamphetamine or crack cocaine, or were arrested for prescription drug fraud.

Drug Court requires them to get treatment for their drug addiction, pay a \$460 program fee, get a high school diploma, submit to regular drug testing, and hold a job. They return to court weekly if they are having problems or monthly if they are doing well.



Judy Barnes, Drug Court coordinator (left); Paul Yakel, Region 6 Behavioral Health Administration; Deputy County Attorney Corey O'Brien (right); and, Retired District Judge James M. Murphy (back) are key players in Douglas County's first Drug Court.

In return for successfully completing Drug Court, which lasts a year or longer, the felony drug charge against them is dismissed. If they fail they are prosecuted for the drug charge and are likely to go to jail.

Retired District Judge James M. Murphy presides over Douglas County's Drug Court, the first of its kind in Nebraska. The unusual program offers a good alternative to traditional criminal court because it meets drug addiction head on, he said.

"It is getting smart on crime instead of getting tough on crime," Murphy said. "We've been getting tough on crime for 20 years. It wasn't working."

Deputy County Attorney Corey O'Brien handles Drug Court cases for

the Douglas County Attorney's office, deciding who is eligible for the program. Because the Drug Court receives federal funds it follows both federal and county criteria.

The program allows no violent offenders, no one with more than one previous felony conviction and no drug dealers.

About 10 percent of those who enter the program fail to complete it. Of the 75 people who have graduated from Drug Court since it began in April 1997, only one person has relapsed -- a heroin addict arrested again for possession.

The program turned O'Brien from a skeptic into a believer.

"When it was first broached with me I referred to it as the hug court

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rather than the drug court. I saw it as another vain effort to rehabilitate all of the criminal justice system, the belief that everybody can be saved.”

But along the way O’Brien has seen the impossible. People who kicked their drug habit when he did not believe it could happen.

He recalled a 35-year-old long-time prostitute and crack cocaine addict who completed the program and came to Drug Court graduation dressed in professional attire. Another woman, well known to the county narcotics unit for years of various drug offenses, announced at the Drug Court’s first graduation that she had accepted a job as a secretary.

He has seen children attend Drug Court graduation to thank him for giving them their father back.

He has seen marriages, families and lives saved.

“My view has totally changed. I have been converted. I have seen the light,” O’Brien said.

He once believed drug users should be dealt with more harshly than was possible in Drug Court. But within three to four months of being assigned to the new court, his attitude began to change.

“When you prosecute somebody you don’t really get to know them. When you see a metamorphosis taking place before your eyes and you get to know them, it changes you.”

O’Brien believes the experience has changed him for the better as a prosecutor. It is still important to distance himself from the people he prosecutes, he said, but it is also important to fully understand the power

he has over their lives. He said he tries even harder now to treat each person who comes into court fairly and objectively.

“I think that this perspective has given me the ability to look inside myself and look at what I do, and how I can affect someone’s life so drastically, and to take more seriously the repercussions of what I do in that courtroom.”

Judy Barnes, Drug Court coordinator and a national certified addictions counselor, said the program works because of the judicial intervention and the link between substance abuse treatment and the criminal justice system. There are variations of the program that could be implemented in other courts, but these elements must be included, she said.

Another important part is that everyone involved -- from the judge to the drug counselor to the prosecutor to the defense attorney -- reviews each case weekly and agrees on how to proceed.

“We all had various philosophies and backgrounds coming into the Drug Court, but we’re now a united front,” Barnes said.

One program benefit is that it saves money, she said. It costs \$1,000 to \$3,000 to treat someone for drug addition, compared to \$25,000 to incarcerate him or her for one year.

Murphy said the Drug Court could be implemented on a regional basis, with one judge handling 10 to 15 counties in an area. One possibility is to divide the state into six areas, with one drug court in each area and with six judges handling all the drug courts.

Drug treatment is the key to the success of the program, Murphy said, but equally important is having a judge

who cares enough to urge drug users to change their lives.

“A lot of these people have never had anybody in their life to care about them,” he said. “And suddenly there is somebody in a black robe who is really happy for them when they have their first clean drug test.”

Murphy said that when people first enter Drug Court they appear thin and unhealthy from drug abuse. “When they come off of the drugs they start to get some self-respect and their chin is a little higher and they look like human beings again. It is a wonderful program.”

O’Brien said he is seeing less skepticism about the program in the county attorney’s office, in the courthouse and among law enforcement personnel. He said an important part of his role is to ensure that the Drug Court doesn’t become simply a “feel good” program. His presence prevents defendants from manipulating the system and reminds them that the hammer of a drug conviction is always hanging over their heads.

The results of the Drug Court speak for themselves, especially given the fact that traditional methods of dealing with drug abusers were not working, O’Brien said.

“I think the war on drugs has a new tool it didn’t have before. The war on drugs isn’t going to be won with the institution of a drug court or with stiffer penalties, but this is an additional tool to combat it.” ♦